

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

‘ILIO‘ULAOKALANI COALITION, a) Civil No. 04-00502 DAE BMK
Hawai‘i nonprofit corporation; NĀ ‘IMI)
PONO, a Hawai‘i unincorporated) DECLARATION OF DAVID L.
association; and KĪPUKA, a Hawai‘i) HENKIN; EXHIBITS “1”-“36”
unincorporated association,)
)
Plaintiffs,)
)
v.)
)
DONALD H. RUMSFELD, Secretary of)
Defense; and FRANCIS J. HARVEY,)
Secretary of the United States)
Department of the Army,)
)
Defendants.)
)
)

DECLARATION OF DAVID L. HENKIN

I, DAVID L. HENKIN, declare under penalty of perjury that:

1. I am an attorney at law, duly licensed to practice before this Court, and am the lead attorney for plaintiffs ‘Ilio‘ulaokalani Coalition, Nā ‘Imi Pono, and Kīpuka (collectively, “the Hawaiian Groups”) in this action.

2. I make this Declaration in support of the Hawaiian Groups’ Memorandum Re: Interim Injunction. This declaration is based on my personal knowledge, and I am competent to testify about the matters contained herein.

3. Attached hereto as Exhibit “1” is a true and correct copy of the Ninth Circuit’s Addendum to Order Granting Temporary Injunction and Remanding in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir. Oct. 27, 2006).

4. Attached hereto as Exhibit “2” is a true and correct copy of the Order the Ninth Circuit issued on October 27, 2006 in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915.

5. Attached hereto as Exhibit “3” are excerpts from a true and correct copy of the administrative record herein for Defendants’ Environmental Impact Statement, Transformation of the 2nd Brigade, 25th Infantry Division (Light) to a Stryker Brigade Combat Team in Hawai‘i (“SEIS”).

6. Attached hereto as Exhibit “4” are true and correct copies of various maps, in their original color, from the SEIS.

7. Attached hereto as Exhibit “5” is a true and correct copy of the October 22, 2006 Declaration of Lawrence T. Kawasaki, which Defendants filed . with their opposition to the Hawaiian Groups’ Emergency Motion for Injunction Pending Decision on Permanent Injunction in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir.).

8. Attached hereto as Exhibit “6” is a true and correct copy of an October 5, 2006 letter from Office of Hawaiian Affairs (“OHA”) Administrator Clyde Nāmu‘o to Colonel Howard Killian, which I received from OHA. A copy of this letter was also attached as Exhibit “A” to the amicus brief OHA lodged in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir.).

9. Attached hereto as Exhibit “7” is a true and correct copy of the October 25, 2006 Amicus Curiae Brief Of The Office of Hawaiian Affairs In Support Of ‘Ilio‘ulaokalani Coalition, Nā ‘Imi Pono, And Kīpuka’s Emergency Motion Under Circuit Rule 27-3(b), which OHA lodged in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir.).

10. Attached hereto as Exhibit “8” are excerpts from a true and correct copy of the October 22, 2006 Declaration of Dr. Laurie Lucking, which Defendants filed with their opposition to the Hawaiian Groups’ Emergency Motion for Injunction Pending Decision on Permanent Injunction in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir.).

11. Attached hereto as Exhibit “9” is a true and correct copy of the October 25, 2006 Declaration of Kai Markell, which OHA submitted in support of its amicus brief in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir.).

12. Attached hereto as Exhibit “10” is a true and correct copy of an October 4, 2006 letter from Peter Young, Hawai‘i State Preservation Officer, regarding National Historic Preservation Act Section 106 review of the Battle Area Complex Training Range Construction Project.

13. Attached hereto as Exhibit “11” is a true and correct copy of a July 25, 2006 letter from Don Klima, Director of the Office of Federal Agency Programs for the Advisory Council on Historic Preservation, regarding the Programmatic Agreement for Stryker conversion in Hawai‘i.

14. Attached hereto as Exhibit “12” are excerpts from a true and correct copy of the Programmatic Biological Assessment for Routine Military Training and Transformation of the 2nd Brigade, 25th Infantry Division (Light), U.S. Army, Oahu, Hawaii, dated April 2003.

15. Attached hereto as Exhibit “13” are excerpts from a true and correct copy of the April 2003 Programmatic Biological Assessment for Transformation of the 2nd Brigade, 25th Infantry Division (Light), U.S. Army, Island of Hawaii.

16. Attached hereto as Exhibit “14” are excerpts from a true and correct copy of the October 21, 2006 Declaration of Ronald L. Borne, which Defendants filed with their opposition to the Hawaiian Groups’ Emergency Motion for

Injunction Pending Decision on Permanent Injunction in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir.).

17. Attached hereto as Exhibit “15” are excerpts from a true and correct copy of a November 1997 Army, Marine Corps, Navy, and Air Force document entitled “J-Fire, Multiservice Procedures for the Joint Application of Firepower.” This document is available at: http://www.globalsecurity.org/military/library/policy/army/fm/90-20/fm_90-20_jfire.pdf.

18. Attached hereto as Exhibit “16” is a true and correct copy of a newspaper article by David Wickert entitled “New brigade could arrive soon,” that appeared in the Tacoma, Washington News Tribune on July 24, 2004. I printed the article from the News Tribune’s website: <http://old.tribnet.com/news/local/v-printer/story/5336000p-5274110c.html>.

19. Attached hereto as Exhibit “17” are excerpts from a true and correct copy of the July 2006 Limited Warranty Deed transferring approximately 24,000 acres of land on Hawai‘i Island from Parker Ranch to Defendants. I received a copy of this document from Eric James, counsel for Parker Ranch.

20. Attached hereto as Exhibit “18” is a true and correct copy of an August 19, 2004 letter I wrote to Gary Oliva, counsel for the Estate of James Campbell.

21. Attached hereto as Exhibit “19” is a true and correct copy of an August 20, 2004 letter I wrote to Chris Kanazawa, President and CEO of Parker Ranch.

22. Attached hereto as Exhibit “20” is a true and correct copy of a May 4, 2005 letter I wrote to Chris Kanazawa, President and CEO of Parker Ranch.

23. Attached hereto as Exhibit “21” is a true and correct copy of the Ninth Circuit’s October 5, 2006 memorandum decision in United States v. 1,402 Acres, No. 05-15858 (9th Cir.).

24. Attached hereto as Exhibit “22” are excerpts from a true and correct copy of the brief Plaintiff-Appellee United States filed in United States v. 1,402 Acres, No. 05-15858 (9th Cir.).

25. Attached hereto as Exhibit “23” are excerpts from a true and correct copy of the title reports for the parcels of land constituting the South Range Acquisition Area. Defendants Trustees Under The Will And Of The Estate Of James Campbell attached the title reports as Exhibit “C” to their September 29, 2004 opposition to the Hawaiian Groups’ Motion For Leave To Intervene in United States v. 1,402 Acres, Civ. No. 04-00574 DAE BMK (D. Haw.).

26. Attached hereto as Exhibit “24” are excerpts from a true and correct copy of Defendants’ opposition to the Hawaiian Groups’ Emergency Motion for Injunction Pending Decision on Permanent Injunction in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir.).

27. Attached hereto as Exhibit “25” are excerpts from a true and correct copy of the May 24, 2005 Declaration of James J. Lovelace, which Defendants submitted with their opposition to the Hawaiian Groups’ motion for an injunction pending appeal in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir.).

28. Attached hereto as Exhibit “26” are excerpts from a true and correct copy of the October 23, 2006 Declaration of James J. Lovelace, which Defendants submitted with their opposition to the Hawaiian Groups’ Emergency Motion for Injunction Pending Decision on Permanent Injunction in ‘Ilio‘ulaokalani Coalition v. Rumsfeld, No. 05-15915 (9th Cir.).

29. Attached hereto as Exhibit “27” is a true and correct copy of a newspaper article by Michael Gilbert, entitled “New Stryker boasts plenty of firepower,” that appeared in the Tacoma, Washington News Tribune on September 17, 2006. I printed the article from the News Tribune’s website:

<http://www.thenewstribune.com/news/local/story/6102144p-5347604c.html>.

30. Attached hereto as Exhibit “28” is a true and correct copy of a newspaper article by William Cole, entitled “5,000 leaving for war games,” that appeared in the Honolulu Advertiser on April 23, 2006. I printed the article from the Advertiser’s website: <http://www.honoluluadvertiser.com/apps/pbcs.dll/article?AID=/20060423/NEWS08/604230351/1001/NEWS>.

31. Attached hereto as Exhibit “29” is a true and correct copy of a newspaper article by Gregg K. Kakesako, entitled “Army honors war-weathered

division,” that appeared in the Honolulu Star-Bulletin on May 4, 2005. I printed the article from the Star-Bulletin’s website: <http://starbulletin.com/2005/05/04/news/index8.html>.

32. Attached hereto as Exhibit “30” is a true and correct copy of a November 7, 2005 U.S. Department of Defense press release announcing deployments to Iraq scheduled to begin in mid-2006, which I printed from the Defense Department’s official website: <http://www.defenselink.mil/Releases/Release.aspx?ReleaseID=9049>.

33. Attached hereto as Exhibit “31” are excerpts from a true and correct copy of a newspaper article by Sean Cockerham entitled “Fort Lewis Strykers could head for Baghdad” that appeared in the Tacoma, Washington News Tribune on July 27, 2006. I printed the article from the News Tribune’s website: <http://www.thenewstribune.com/news/military/stryker/story/5982838p-5259740c.html>.

34. Attached hereto as Exhibit “32” are excerpts from a true and correct copy of the administrative record herein for Defendants’ Programmatic Environmental Impact Statement for Army Transformation.

35. Attached hereto as Exhibit “33” is a true and correct copy of a September 18, 2006, Army News Service Press Release, entitled “Stryker Cavalry Regiment Now Calls Germany ‘Home,’” which I printed from the Army Public Affairs website: http://www4.army.mil/ocpa/read.php?story_id_key=9587.

36. Attached hereto as Exhibit "34" are excerpts from a true and correct copy of a newspaper article by William Cole, entitled "Were Strykers fast tracked?," that appeared in the Honolulu Advertiser on November 6, 2006. I printed the article from the Advertiser's website:

<http://the.honoluluadvertiser.com/article/2006/Nov/06/ln/FP611060341.html>.

37. Attached hereto as Exhibit "35" is a true and correct copy of a newspaper article by U.S. Army Garrison Hawaii Public Affairs, entitled "2nd SBCT halts its Stryker training," that appeared in Hawai'i Army Weekly on November 3, 2006.

38. Attached hereto as Exhibit "36" are excerpts from a true and correct copy of the Deposition of John Michael Bednarek, taken on December 21, 2005, in Mālama Mākua v. Rumsfeld, Civ. No. 00-00813 SOM LEK (D. Haw.).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 14, 2006, at Honolulu, Hawai'i.

/s/ David L. Henkin
David L. Henkin